

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 18, 2005

IN RE:

**PETITION FOR APPROVAL OF THE
AMENDMENT TO THE INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND BROOKS
FIBER COMMUNICATIONS OF TENNESSEE,
INC.**

**DOCKET NO.
04-00363**

**ORDER APPROVING
FIFTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 13, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Brooks Fiber Communications of Tennessee, Inc.

The original interconnection agreement between these parties was filed on July 15, 2002, in Docket No. 00-00309. It was approved at a regularly scheduled Authority Conference on August 19, 2002. The first amendment was filed on December 20, 2002, and was assigned Docket No. 02-01313. It was approved at a regularly scheduled Authority Conference on February 18, 2003. The second amendment was filed on May 19, 2003, under Docket No. 03-00349 and was approved at a regularly scheduled Authority Conference on July 21, 2003. The third amendment was filed on November 7, 2003, under Docket No. 03-00592 and was approved

at a regularly scheduled Authority Conference on December 15, 2003. The fourth amendment was filed on January 22, 2004, under Docket No. 04-00027 and was approved at a regularly scheduled Authority Conference on March 22, 2004. The fifth amendment, which is the subject of this docket, was filed on October 21, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

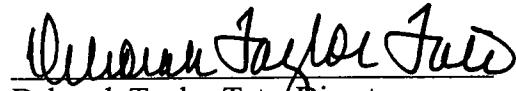
- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

¹ See 47 U.S.C. § 252(e)(2)(B).

- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Brooks Fiber Communications of Tennessee, Inc. is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Director


Sara Kyle, Director


Ron Jones, Director